

1 KENT ROGER (SBN 95987)  
2 MICHELLE PARK CHIU (SBN 248421)  
3 MORGAN, LEWIS & BOCKIUS LLP  
4 One Market, Spear Street Tower  
5 San Francisco, California 94105-1126  
Tel: 415.442.1000  
Fax: 415.442.1001  
Email: [kroger@morganlewis.com](mailto:kroger@morganlewis.com)  
[mchiu@morganlewis.com](mailto:mchiu@morganlewis.com)

6 Attorneys for Third Party  
7 THOMAS SCHMITT

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA

10  
11 SAN FRANCISCO

12  
13 IN RE: CATHODE RAY TUBE (CRT) Case No. 3:07-cv-5944 SC  
14 ANTITRUST LITIGATION MDL No. 1917

15  
16 **THIRD PARTY THOMAS SCHMITT'S**  
17 **OBJECTIONS AND RESPONSES TO**  
18 **PLAINTIFFS' SUBPOENA**  
**COMMANDING PRODUCTION OF**  
**DOCUMENTS**

19  
20 Pursuant to Rule 45 of the Federal Rules of Civil Procedure, third-party Thomas Schmitt  
21 ("Respondent"), by and through his undersigned attorneys Morgan, Lewis & Bockius LLP,  
22 hereby objects and responds to the Subpoena served by plaintiff Costco Wholesale Corporation,  
23 in conjunction with the Indirect Purchaser Plaintiffs, Direct Purchaser Plaintiffs, Direct Action  
24 Plaintiffs, and the Attorney General of California (together, "Plaintiffs"), on May 17, 2013, as  
25 follows:  
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Respondent incorporates by reference each and every General Objection set forth below into each and every specific response. Occasionally a specific response may repeat a General Objection for emphasis or some other reason. The failure to repeat any General Objection in any specific response shall not be interpreted as a waiver of any General Objection to that response.

## GENERAL OBJECTIONS

1. Respondent objects to the Subpoena and the Definitions, Instructions, and Requests contained therein to the extent that they impose obligations that exceed the scope of Respondent's obligations under the Federal Rules or the Local Rules for the Northern District of California.

2. Respondent objects to the Requests to the extent that they seek production of documents already in Plaintiffs' possession, custody, or control, or that are equally accessible to Plaintiffs as to Respondent.

3. Respondent objects to the Requests, and each request therein, to the extent they seek to impose on Respondent an obligation to investigate or discover information or materials from defendants, third parties, or sources who are equally accessible to Plaintiffs. Respondent, a non-party to this action, should not be put to the time and expense to produce such documents and information.

4. Respondent objects to the Requests to the extent they are overly broad, unduly burdensome and oppressive (including, without limitation, Requests as to which the burden and expense of locating and producing potentially responsive documents, which--if any exist--may be numerous and in numerous different locations, clearly outweighs the probative value--if any--of such documents), and beyond the proper scope of discovery. Such objections shall be made in the short form "overly broad and unduly burdensome."

5. Respondent objects to the Requests to the extent they seek production of documents that are neither relevant to the subject matter of this action nor reasonably calculated to lead to the discovery of admissible evidence.

6. Respondent objects to the Requests to the extent they seek production of documents protected by the attorney-client privilege, work product doctrine, or any other

1 applicable privileges, doctrine, or immunity. No such privileged documents or information will  
 2 be produced at any time, and any inadvertent production thereof shall not be deemed a waiver of  
 3 any privilege with respect to such documents or information or of any work product doctrine  
 4 which may attach thereto.

5       7.      Respondent objects to the Requests to the extent they are not set forth with  
 6 sufficient particularity, and/or are vague, ambiguous, duplicative, and unlimited in scope.

7       8.      Respondent objects to the Requests to the extent they seek documents not  
 8 currently in Respondent's possession, custody, or control.

9       9.      Respondent objects to the Requests to the extent they seek documents that are no  
 10 longer readily accessible to Respondent but might exist only in electronic archives or back-up  
 11 files. Respondent will not rebuild these electronic archives and back-up files in order to search  
 12 for documents that may be responsive to the Requests.

13       10.     Respondent objects to the Requests as being overly broad and unduly burdensome  
 14 to the extent that they seek the production of electronically stored information not reasonably  
 15 accessible. Respondent agrees to meet and confer with Plaintiffs' counsel regarding requests for  
 16 electronically stored information, including any related costs.

17       11.     Respondent objects to the Requests to the extent they seek documents and  
 18 information that would disclose Respondent's or a third party's respective trade secrets or other  
 19 confidential research, development, or confidential information protected by the Uniform Trade  
 20 Secrets Act, any and all rights of privacy under the United States Constitution or Article One of  
 21 the Constitution of the State of California, or any other applicable state constitution or law,  
 22 including any copyright or license, or which is otherwise prohibited from disclosure because to do  
 23 so would cause Respondent to violate legal or contractual obligations to any other persons or  
 24 entities.

25       12.     Respondent objects to the Requests to the extent they attempt to impose  
 26 obligations on Respondent and/or seek documents beyond those required to be produced pursuant  
 27 to the Stipulation and Order Regarding the Production of Electronically Stored Information filed  
 28 in this case, Dkt. 828 (December 16, 2010) (the "ESI Protocol").

1           13.    Respondent's objections, responses, and production of documents are based upon  
 2 information and writings available to and located by Respondent and his undersigned attorneys as  
 3 of service of these responses. Respondent has not completed its investigation of the facts relating  
 4 to this Subpoena, and all of the information supplied and documents and things that may be  
 5 produced are based only on such information and documents which are reasonably available and  
 6 specifically known to Respondent and his attorneys as of the date of service of his response.  
 7 Therefore, Respondent's objections, responses, and production of documents are without  
 8 prejudice to his right to supplement and/or amend his objections, responses, and production of  
 9 documents.

10           14.    If multiple, identical copies of any document are responsive to any requests herein,  
 11 only one representative copy will be produced. Producing more than one identical copy is unduly  
 12 burdensome and oppressive.

13           15.    Respondent objects to the use of the terms "YOU" and "YOUR" on the ground  
 14 that these terms render the Requests in which they appear vague and ambiguous, overly broad,  
 15 unduly burdensome, oppressive, and beyond the scope of permissible discovery to the extent such  
 16 definitions expand the scope of inquiry beyond the Respondent himself.

17           16.    Respondent objects to the use of the term "RELATING TO" to the extent that  
 18 Plaintiffs' definition is broader than and deviates from the commonly understood definition of  
 19 this term, on the ground that it renders the Requests in which it appears vague, ambiguous, and  
 20 overly broad and unduly burdensome.

21           17.    Respondent objects to the term "DOCUMENT(S)" as used the Subpoena, to the  
 22 extent this definition is broader than and deviates from the commonly understood definition of the  
 23 term, on the ground that it renders the Requests in which it appears vague, ambiguous, and overly  
 24 broad and unduly burdensome.

25           **SPECIFIC OBJECTIONS AND RESPONSES TO DEFENDANT'S PRODUCTION**  
 26           **REQUEST NO. 1**

27           **PRODUCTION REQUEST NO. 1**

1 Any and all Documents relating to the manufacture or sale of CRTs or CRT Finished  
 2 Products during the Relevant Period.

3 **RESPONSE TO PRODUCTION REQUEST NO. 1**

4 Respondent reasserts and incorporates each of the General Objections set forth above.  
 5 Respondent objects to this Request to the extent that it is overly broad and unduly burdensome.  
 6 Respondent objects to this Request to the extent that it is vague and ambiguous, compound, and  
 7 improper in form. Respondent further objects to this Request to the extent it seeks production of  
 8 documents which are neither relevant to the subject matter of this action nor reasonably  
 9 calculated to lead to the discovery of admissible evidence. Respondent objects to this Request to  
 10 the extent it seeks documents protected by the attorney-client privilege, work product doctrine, or  
 11 other applicable privilege. No such privileged documents will be produced. Respondent objects  
 12 to this Request to the extent it seeks confidential, proprietary, or highly sensitive information or  
 13 information that is protected by the right to privacy of any third party that Respondent is  
 14 obligated to safeguard. Respondent objects to this Request to the extent it contains duplicative  
 15 requests, in whole or in part.

16 Subject to and without waiving the foregoing General and Specific Objections,  
 17 Respondent responds that after a reasonable and diligent search, Respondent has not located any  
 18 documents responsive to this Request.

19 Dated: June 21, 2013

20 MORGAN, LEWIS & BOCKIUS LLP

21 By /s/ Michelle Park Chiu

22 Michelle Park Chiu

23 Attorneys for Third Party Thomas Schmitt